

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

WINSTON IRVING,

Plaintiff,

-against-

CITY OF NEW YORK, et al.,

Defendants.

USDS SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 9/13/07

STIPULATION AND  
ORDER OF  
SETTLEMENT AND  
DISMISSAL

07 Civ. 6075 (CM)

WHEREAS, plaintiff commenced this action by filing a complaint on or about June 27, 2007, alleging that defendants City, NYPD and Gartner violated plaintiff's federal civil and state common law rights; and

WHEREAS, defendants City, NYPD and Gartner have denied any and all liability arising out of plaintiff's allegations; and

WHEREAS, the parties now desire to resolve the issues raised in this litigation, without further proceedings and without admitting any fault or liability;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. The above-referenced action is hereby dismissed, with prejudice, and without costs, expenses, or fees in excess of the amount specified in paragraph "2" below.

2. The City of New York hereby agrees to pay plaintiff the sum of Twenty-Five Thousand (\$25,000.00) Dollars in full satisfaction of all claims, including claims for costs, expenses and attorney fees. In consideration for the payment of this sum, plaintiff agrees to dismissal of all the claims against defendants City, NYPD and Gartner and to release the

defendants, any present or former employees and agents of the City of New York, or any agency thereof, from any and all liability, claims, or rights of action that were or could have been alleged by plaintiff arising out of the events alleged in the complaint in this action, including claims for costs, expenses and attorney fees.

3. Plaintiff shall execute and deliver to defendant's attorney all documents necessary to effect this settlement, including, without limitation, a General Release based on the terms of paragraph 2 above and an Affidavit of No Liens.

4. Nothing contained herein shall be deemed to be an admission by defendants that they have in any manner or way violated plaintiff's rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City of New York or any other rules, regulations or bylaws of any department or subdivision of the City of New York. This stipulation shall not be admissible in, nor is it related to, any other litigation or settlement negotiations.

5. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any agency thereof.

6. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject


matter of the instant proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
September 9, 2007

MICHAEL W. WARREN  
Law Offices of Michael W. Warren, P.C.  
Attorney for Plaintiff  
580 Washington Avenue  
Brooklyn, New York 11238

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
Attorney for City, NYPD and Gartner  
100 Church Street  
New York, New York 10007  
(212) 788-0906

By:

  
MICHAEL W. WARREN ( MW-1187 )  
Attorney for Plaintiff

By:

  
SHAWN FABIAN (SF4606)  
Assistant Corporation Counsel

SO ORDERED:

  
U.S.D.J.

9-13-07